



City of Seattle

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3011668
Applicant Name: Edward Langenback
Address of Proposal: 419 Lakeside Ave S

SUMMARY OF PROPOSED ACTION

Land Use Application to recognize an undersized lot in an environmentally critical area.
Existing residence is proposed to remain.

The following approval is required:

Variance – to allow an undersized lot in an SF5000 zone (SMC 23.44.010B)

Variance – to exceed maximum lot coverage (SMC 23.44.010C)

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is located on the west side of Lakeside Ave S, midblock between S. Jackson and S King Streets. The immediate area is zoned SF5000. The site slopes downhill steeply to the east although the steep slopes have been previously altered and appear to be exempt from steep slope development standards of the Environmentally Critical Areas (ECA) Ordinance. The site consists of two full platted lots and a portion of a third and has historically been held together as one development site. The site abuts an “L” shaped alley. The area is generally developed with detached single family residences.

Description of Proposal

The applicant requests variances to allow the smallest fully platted lot, already developed with a single family residence, to be recognized under the Seattle Land Use Code as a separate lot from the remainder of the property, consistent with the current separation of ownership.

Public Comment

Notice of the proposal was issued on April 28, 2011. Four comment letters were received from nearby property owners concerned about the impacts of having an additional house constructed in this area.

ANALYSIS –VARIANCE

Variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;**

The proposed lot separation of the two tax parcels would accommodate the existing house on one lot while the other could be developed with a new house. The proposed recognition of this lot separation as legal building sites under the Land Use Code would restore the property rights of the two current separate owners. The separate development right of these lots has been compromised by the independent sale of one lot from another which was instigated by a previous property owner. The previous owner was able to obtain separate tax assessor parcel numbers for each parcel based on the historic platting of the lots.

While pre-existing (pre-1957) undersized lots in the single family zones are generally recognized by code as separate legal building sites, there is an exception in the case where the lots were used together to satisfy development standards. This situation is fairly easy to recognize when a structure is built in a manner which straddles the common property line, as is often the case. It is less obvious when the structure is constructed on one lot and the other lot primarily was used to provide enough land to meet lot coverage calculations, as is the case with the subject property. It is not necessarily apparent that the house does not conform to the lot coverage requirement until the building's footprint is surveyed, the lot coverage is calculated, and the historic configurations of the house and the lots are known.

For instance, had the house been constructed prior to lot coverage requirements on a single lot and the adjacent lot had been acquired later, the adjacent site could typically still be sold and redeveloped as a separate site. Although the house appears to have been originally constructed prior to lot coverage requirements, additions were made at a later point when the adjacent lot was required to meet development standards. Some of this additional development, including

portions that may have straddled the property line, were subsequently removed by a previous owner further obscuring whether these tax parcels appeared to constitute separate legal building sites.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;

The requested variances allow each of the existing property owners to have separate legal building sites for the parcels they currently own. It appears that the two parcels by themselves, if adjusted in size by lot boundary adjustment, could be considered legal building sites without the need for variance relief. The southerly parcel, at 3,006.7 sq. ft. in area, would only need to increase in size by 743.3 sq. ft. if it were a vacant lot or if the existing house were reduced in size resulting in a maximum lot coverage of 1,572 sq. ft. ($<3750 + 324 \text{ for } \frac{1}{2} \text{ of adj alley} > \times .15 + 1000$). This would reduce the other tax parcel from 4,908.7 sq. ft. down to 4,165.4 sq. ft., an allowable size under the 75/80 rule that allows for an exception to minimum lot size. While this would negate the need for one of the requested variances, it would not allow each owner to build on the property as they both currently own them and it would still not comply with lot coverage requirements for the existing development.

The northerly parcel does not have enough land to transfer to the southerly parcel to both satisfy lot coverage for the house as existing and to meet the 75/80 rule for exception to minimum lot size. To allow both the existing house to remain and to allow each owner to have a legal building site, the pair of variances requested together are the minimum necessary to afford relief.

Since separate legal building sites could be recognized without variance relief by removing some of the existing house and adjusting the lot sizes between the two tax parcels, no additional building site is being granted by variance, only the ability to recognize the existing lot configuration while allowing existing development to remain. Furthermore, a proposed side yard easement across the southern edge of the northern parcel will ensure that any new home constructed on the northerly parcel will have a similar separation from the existing house as would likely exist if the existing house were reduced in size (or replaced with a new structure) and the lot lines were adjusted in the manner described above. Therefore, granting of the requested variances does not constitute a grant of special privilege.

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;

Since separate legal building sites could be recognized without variance relief by removing some of the existing house and adjusting the lot sizes between the two tax parcels, no additional building site is being granted by variance, only the ability to recognize the existing lot configuration while allowing existing development to remain. Furthermore, a proposed side yard easement across the southern edge of the northern parcel will ensure that any new home constructed on the northerly parcel will have a similar separation from the existing house as would likely exist if the existing house were reduced in size (or replaced with a new structure)

and the lot lines were adjusted in the manner described above. Therefore the anticipated future development of the northern lot will appear very similar in bulk, scale and massing to the structure that could be permitted if the lot were adjusted in size without variance relief. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity.

4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;

Two innocent purchasers of land each own tax parcels that at great surprise to them are not considered legal building sites under the Land Use Code. It would be an undue hardship or practical difficulties for each owner to require demolition of all or part of the existing house owned by one owner and to require the other owner to give up part of the land they purchased in order to create legal building sites without variance relief.

5. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.

The proposed variances would likely result in construction of a single family house which is similar to the size and setback found throughout the nearby neighborhood without the necessity of adjusting a lot line with an adjacent owner and without the need to demolish a portion of the existing house on an adjacent lot. The proposal will not result in development that fits the character, design, and streetscape of the surrounding neighborhood, consistent with the Land Use Code regulations for the area.

DECISION –VARIANCE

Variances to allow reduced size lot and to exceed lot coverage in order to recognize Lot 9, B. L. Muir's Replat of Block 71 Burkes's 2nd Addition as a separate legal building site are **GRANTED.**

CONDITIONS OF APPROVAL

None

Signature: _____ (signature on file) Date: October 13, 2011
Jerry Suder, Land Use Planner, Supervisor
Department of Planning and Development

JS:bg